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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/677,583    09/29/00    ALVAREZ-CALDERON

A

EXAMINER

PM82/1002

LAW OFFICES OF ADAM H. JACOBS  
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SUITE 726  
OMAHA NE 68102

SWINEHART, E

ART UNIT

PAPER NUMBER

3617

DATE MAILED:

10/02/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-39 is/are pending in the application.
- ☒ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 25 and 26 is/are allowed.
- ☒ Claim(s) 1-17, 19-22, 27-31 and 33-39 is/are rejected.
- ☒ Claim(s) 18, 23, 32 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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### DETAILED ACTION

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
2. Claims 7,8,13,16,29-31,37 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, "said flap" lacks antecedent basis in the claim(s).

In claim 13, "said trailing edge flaps" lacks antecedent basis in the claim(s).

Claim 16 is not understood.

Claim 29 repeats limitations which have already been set forth.

Claim 37 is not understood.

Claim 39 improperly limits the claim from which it depends.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5,9-12,15,17,19,27-29 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Perce.

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Perce teaches a watercraft configured as claimed, with narrow front, broad rear, and diving planes **64-70**. The planform is generally triangular.

Re claim 4, the upper and lower surfaces taper towards each other in the region **16,20**.

Re claim 36, a shift in the center of buoyance as claimed is an inherent feature of submersible craft.

5. Claims 20,24,27,33,35,38 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills.

Mills teaches the claimed hull shape.

Re "surface and subsurface..." such fails to define any specific structure and/or arrangement so as to define over the hull of Mills.

Re claim 33, the craft of Mills is inherently "adapted" as claimed.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Trenne et al.

Mills fails to teach operation on the land.

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Trenne et al. teaches a tricycle wheel arrangement for enabling operation of a boat on land.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Mills with wheels as taught by Trenne et al.

Such a combination would have been desirable at the time of the invention was made so as to provide for operation on land.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Held.

Mills fails to teach mid-body attached wings as claimed.

Held teaches wings attachable to the mid-body of a hull to enhance stability.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide wings to the hull of Mills as taught by Held.

Such a combination would have been desirable at the time of the invention was made so as to provide for the enhanced stability provided.

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Banner.

Mills fails to teach trailing edge flaps.

Banner teaches trailing edge hull flaps for controlling trim.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Mills with flaps as taught by Banner.

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Such a combination would have been desirable at the time of the invention was made so as to provide for control of hull trim.

10. Claims 6,14,30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perce in view of Bandyopadhyay.

Perce fails to teach a trailing edge flap.

Bandyopadhyay teaches a submersible having a trailing edge flap as claimed.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Perce with a trailing edge flap as taught by Bandyopadhyay.

Such a combination would have been desirable at the time of the invention was made so as to provide a more effective flap.

11. Claims 18,23 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 25 and 26 are allowed.

13. Papers relating to this application may be submitted to Technology Center 3600 by facsimile transmission. The submission of such papers by facsimile transmission must comply with the notice published in the Official Gazette, **1096 OG 30** (November 15, 1989). The Fax Center number is (703)-305-7687.

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14. Any inquiry concerning this communication should be directed to Ed L. Swinehart whose telephone number is (703)-308-2566.

15. Any inquiry of a general nature or relating to the status of the application should be directed to the Technology Center 3600 receptionist whose telephone number is (703)-308-1113.

September 27, 2001

A handwritten signature in black ink, consisting of a large, stylized 'E' followed by a horizontal line and a small flourish.

**Ed L. Swinehart**  
**Primary Examiner**  
**Art Unit 3617**